

## REMARKS

Applicant believes that the action issued on October 19, 2005 was improperly made final and requests that the Examiner withdraw the finality of the rejection.

According to MPEP Section 706.07(a), second or subsequent action on the merits shall be final except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor *based on information submitted in an information disclosure statement filed during the period set for the in 37 C.F.R. 1.97(c) with the fee set forth in 37 C.F.R. 1.17(p)*. As best as Applicant can understand, this section states that an action should not be made final if the prior art used in the rejection was not submitted in an IDS with a fee. The Nishikawa reference used to reject claims 30-32 was not submitted in an IDS, and this is the first time the Examiner has used this reference to reject Applicant's claims. As a result, the finality of the rejection is improper.

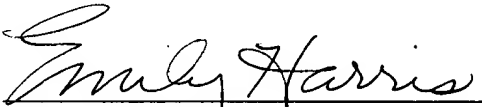
Claims 30-32 were rejected un Section 102(e) as being anticipated by Nishkawa. The claims have been amended to positively recite the disease being treated in the body of the claim, thus imparting a physical limitation to the claim. Nishkawa does not describe a combination of aspirin and vitamin C for the reduction of atherosclerotic plaque formation.

Based on the foregoing, the Applicant respectfully submits that its claims are in condition for allowance at this time. Accordingly, reconsideration of the application and passage to allowance are respectfully solicited.

The Examiner is respectfully urged to call the undersigned attorney at (515) 288-2500 to discuss the claims in an effort to reach a mutual agreement with respect to claim limitations in the present application which will be effective to define the patentable subject matter if the present claims are not deemed adequate for this purpose.

Respectfully submitted,

Date: 1/19/06



Emily E. Harris  
Registration No. 56,201  
DAVIS, BROWN, KOEHN,  
SHORS & ROBERTS, P.C.  
666 Walnut St., Suite 2500  
Des Moines, Iowa 50309  
Telephone: (515) 288-2500

ATTORNEYS FOR APPLICANT

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:  
Assistant Commissioner for Trademarks, 2900  
Crystal Drive, Arlington, Virginia 22202-3513, on

1/19/06  
By Emily Harris